

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DUMITRU MARTIN,

Plaintiff,

v.

ARINDA PHILLIPS, et al.,

Defendants.

No. 2:25-cv-00687-DJC-AC

ORDER

Pending before the Court is Petitioner Dumitru Martin's Motion for Temporary Restraining Order (Mot. TRO (ECF No. 6.)). Petitioner was released to a halfway house and then to home confinement by the Bureau of Prisons due to having received sufficient Good Conduct Time and First Step Act Earned Time Credits (FSA Credits) while he served his sentence. (*Id.* at 3-4.) Several months later, despite having complied with all the terms of his release plan, he was arrested and placed back in custody. (See *id.* at 4.) Although he received no written documentation regarding the reason why, it appears this was due to an active immigration detainer against him. (*Id.*) Petitioner now seeks release from custody and return to home confinement pending a decision on his Petition for Writ of Habeas Corpus under 18 U.S.C. § 2241. (ECF No. 1.) Respondents argue that the Motion should be denied because this Court

1 lacks jurisdiction and statutory authority. (See Martin Opp’n (ECF No. 6) at 1.) For the
2 reasons discussed below, the Court GRANTS the Motion for Temporary Restraining
3 Order and orders Mr. Martin transferred back into prerelease custody.

4 **I. Background**

5 **A. Statutory Background**

6 This Motion arises in the context of the First Step Act. The Act was signed into
7 law in December 2018 and amended 18 U.S.C. §§ 3621, 3624, and 3632. First Step
8 Act, Pub. L. 115-391, 132 Stat. 5194 (2018). These amendments provide that the
9 Bureau of Prisons give prisoners the chance to receive “earned time credits” for
10 participating in “recidivism reduction programs.” See 18 U.S.C. §§ 3621(h), 3632(a);
11 *see also Bottinelli v. Salazar*, 929 F.3d 1196, 1197–98 (9th Cir. 2019). Section 3632
12 provides that a prisoner may receive earned time credits, explains how the credits are
13 to be applied, and states what disqualifies a prisoner from receiving such credits.
14 Principally at issue in this case is section 3632(d)(4)(C), which reads:

15 Time credits earned under this paragraph by prisoners who
16 successfully participate in recidivism reduction programs
17 or productive activities shall be applied toward time in
18 prerelease custody or supervised release. The Director of the
19 Bureau of Prisons shall transfer eligible prisoners, as determined
under section 3624(g), into prerelease custody or supervised
release.

20 18 U.S.C. § 3632(d)(4)(C).

21 **B. Factual Background**

22 Petitioner Dumitru Martin brings a Motion for Temporary Restraining Order
23 seeking immediate release from custody and return to home confinement pending a
24 decision on his Petition for Writ of Habeas Corpus under 18 U.S.C. § 2241.
25 Alternatively, he seeks release pending resolution of his Habeas Petition.

26 In 2017, Petitioner was sentenced to 156 months in prison. (Mot. TRO at 3.)
27 While in prison, Petitioner completed programming, received no disciplinary write-
28 ups, and paid off his entire financial obligation. (*Id.*) As a result, he earned both Good

1 Conduct Time and FSA Credits. (*Id.*) In June 2024, the BOP determined that
2 Petitioner had enough credits to be eligible for prerelease custody and transferred
3 him first to a halfway house, and in August 2024, to home confinement. (*Id.* at 3-4.)
4 Petitioner has resided in Sacramento, California while on home confinement, and has
5 had no disciplinary violations during this period. (*Id.* at 4.)

6 On February 18, 2025, Petitioner was arrested after reporting as directed and
7 returned to custody at the Sacramento County Jail. (*Id.*) Petitioner remains
8 incarcerated.¹ While Petitioner was not given any written documentation regarding
9 the decision to return him to custody, he was informed that the decision was based on
10 a recent BOP policy that prohibits referrals and transfers to residential reentry centers
11 and home confinement for BOP prisoners with unresolved immigration detainers. (*Id.*
12 at 4.) Petitioner has an unresolved immigration detainer.² (*Id.*) Respondents oppose
13 the instant Motion, arguing primarily that this Court lacks jurisdiction and statutory
14 authority over the matter.³

15 **II. Subject Matter Jurisdiction**

16 Respondents first argue that this Court lacks jurisdiction to hear the underlying
17 habeas petition because where Petitioner serves his time on prerelease custody is not
18 within the “core of habeas.” (Martin Opp’n at 3-4.) “[T]he essence of habeas corpus is
19 an attack by a person in custody upon the legality of that custody.” *Preiser v.*
20 *Rodriguez*, 411 U.S. 475, 484 (1973). However, where success on a petitioner’s claim
21 “would not necessarily lead to his immediate or earlier release from confinement”
22 then it “does not fall within ‘the core of habeas corpus.’” *Nettles v. Grounds*, 830 F.3d
23 922, 935 (9th Cir. 2016) (citation omitted). While the federal courts do not have

24 ¹ In Petitioner’s Reply, Petitioner’s counsel informed the Court that Petitioner was recently transferred
25 from Sacramento County Jail and is “enroute” to a federal prison. (Martin Reply (ECF No. 13) at 2 n.1.)

26 ² Petitioner is a Romanian citizen who is lawfully in the United States. However, due to his federal
27 criminal case, BOP paperwork indicates that he has an active immigration detainer. (Mot. TRO at 4.)

28 ³ The Court notes that the issues presented in this application are similar to those in the related case,
Kuzmenko v. Phillips et al., 2:25-cv-00663-DJC-AC.

1 jurisdiction to review discretionary decisions about individuals made by BOP, see
2 *Reeb v. Thomas*, 636 F.3d 1224, 1228 (9th Cir. 2011), the Ninth Circuit has
3 emphasized repeatedly that “courts have jurisdiction over habeas petitions alleging
4 ‘that BOP action is contrary to established federal law, violates the United States
5 Constitution, or exceeds its statutory authority.’” *Close v. Thomas*, 653 F.3d 970, 970–
6 74 (9th Cir. 2011) (citing *Reeb*, 636 F.3d at 1228).

7 Petitioner’s claim is that the BOP violated the First Step Act by denying him
8 from applying his earned FSA Credits based on his unresolved immigration detainer.
9 (See Mot. TRO at 6–9.) Respondents contend that the success of Petitioner’s claim
10 does not change his duration in confinement and that his placement while serving his
11 term is squarely within the BOP’s discretion. (Martin Opp’n at 3–4.) Respondents rely
12 on the Supreme Court’s holding in *Sandin v. Conner*, 515 U.S. 472 (1995), to argue
13 that removing Petitioner from home confinement and returning him to prison does
14 not deprive him of any liberty interest because confinement in prison is not atypical of
15 what inmates endure as part of a custodial sentence.

16 However, *Sandin v. Conner* involved the difference in placing a prisoner in
17 disciplinary segregated confinement versus remaining in the general population. *Id.*
18 at 486. In making its determination, the Court explained that segregated confinement
19 did “not present a dramatic departure from the basic conditions of” the prisoner’s
20 indeterminate sentence. *Id.* at 485. Rather, disciplinary segregation, with insignificant
21 exceptions, did not exceed similar, but discretionary, confinement in either duration
22 or degree of restriction. *Id.* at 486. The Court acknowledges that although
23 Petitioner’s claim here may not ultimately change the length of his custody, success on
24 his argument would lead to his “earlier release from confinement.” Unlike the
25 differences in confinement outlined in *Sandin*, the difference between home
26 confinement and detention in a custodial setting is undoubtedly significant.

27 More relevant is the Supreme Court’s decision in *Young v. Harper*, 520 U.S. 143
28 (1997). In that case, the Court reviewed a habeas petition after the respondent was

1 placed on a preparole program and spent five months outside the penitentiary, but
2 was ultimately denied parole and sent back into custody without the procedural
3 protections outlined in *Morrissey v. Brewer*, 408 U.S. 471 (1972). *Harper*, 520 U.S. at
4 144-45. The Supreme Court found that preparole, as it existed at the time of
5 respondent's release, was sufficiently equivalent to parole so as to warrant similar due
6 process protections. *Id.* at 147. Importantly, the Court noted that although
7 respondent was not free from limitations of his personal liberty, he was released from
8 prison before the expiration of his sentence, kept his own residence, maintained a job,
9 and "relied on at least an implicit promise that [preparole] will be revoked only if he
10 fails to live up to the [preparole] conditions." *Id.* at 147-48. This Court finds it
11 significant that (1) the Supreme Court considered the habeas petition in a matter
12 where the ultimate duration of the custody appeared to remain the same, but success
13 on the claim could result in an earlier release from incarceration, and (2) that the
14 Supreme Court endorsed the view that preparole is "very different from that of
15 confinement in a prison." *Id.* at 147. Here, it is more likely that home confinement,
16 which grants Petitioner many of the freedoms outlined in *Young*, resembles a
17 preparole situation more so than one of an institutional setting. Thus, relief from
18 incarceration would constitute an immediate or earlier relief from confinement and
19 gives this Court subject matter jurisdiction.

20 To be sure, the Director of BOP is granted some discretion in how to effectuate
21 section 3632(d)(4)(C). For instance, he or she may require that prerelease custody be
22 served in a residential reentry center or in home confinement. That decision arguably
23 implicates section 3621, and in any event is not one that can be reviewed by this
24 Court. Similarly, as discussed below, the Director may decide whether to apply the
25 FSA credits to prerelease custody or supervised release, a discretionary decision that
26 may also not be reviewed by this Court. Many of the cases cited by Respondent in
27 support of his argument that the Court lacks jurisdiction involve these discretionary
28 decisions, which are distinguishable from this case. For example, the CARES Act

1 allowed the BOP Director to “lengthen the maximum amount of time for which the
2 Director is authorized to place a prisoner in home confinement, under the first
3 sentence of section 3624(c)(2) of title 18, United States Code, as the Director deems
4 appropriate.” CARES Act, Pub. L. No. 116-135, § 12003(b)(2) (2020) (emphasis
5 added). Given the clear, discretionary language, courts have routinely concluded they
6 lacked jurisdiction to review home confinement eligibility under the CARES Act. See
7 *Diaz-Lozano v. B.M. Trate*, No. 1:22-cv-01403 JLT SKO, 2022 WL 17417716, at *1 (E.D.
8 Cal. Dec. 5, 2022) (collecting cases) (listing cases finding federal habeas petitions
9 cannot be based on the CARES Act).

10 The Court recognizes that to some extent, the issue of subject matter
11 jurisdiction raises and falls with the interpretation of the FSA. However, the core of
12 Petitioner’s claim centers on the BOP exceeding its statutory authority as it pertains to
13 FSA credit application, rather than an individualized, discretionary decision. Thus, the
14 Court finds that it has subject matter jurisdiction. See *Martinez v. Gutierrez*, No. 4:22-
15 cv-00505 RM, 2023 WL 6466490, at *4 (D. Ariz. July 14, 2023), *report and*
16 *recommendation adopted*, 2023 WL 6464850 (D. Ariz. Oct. 4, 2023)(finding that
17 jurisdiction existed where petitioner challenged BOP policy as contrary to section
18 3632(d)); *Ramirez v. Phillips*, No. 2:23-cv-02911 KJM JDP, 2023 WL 8878993, at *2
19 (E.D. Cal. Dec. 22, 2023) (finding that petitioner’s claim that BOP rescinded his FSA
20 credits in violation of federal law falls within the core of habeas corpus because
21 success would necessarily lead to a speedier release).

22 **III. Exhaustion of Remedies**

23 A habeas petitioner must ordinarily exhaust available administrative remedies
24 before filing a petition under section 2241, and a petition may properly be dismissed
25 for failure to exhaust the administrative remedies made available by the BOP. See
26 *Martinez v. Roberts*, 804 F.2d 570, 571 (9th Cir. 1986). However, courts have discretion
27 to waive the exhaustion requirement when administrative remedies are inadequate or
28 their exercise would be futile, or irreparable injury would result without immediate

1 judicial intervention. See *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004). A key
2 consideration in exercising this discretion is whether “relaxation of the requirement
3 would encourage deliberate bypass of the administrative scheme.” *Id.* at 1000
4 (citation and quotation omitted).

5 Respondent argues that administrative exhaustion is required because there is
6 no final order or record from BOP to review. However, Respondents provide no
7 indication of what further information BOP would provide in such an order; indeed,
8 the facts appear undisputed, and BOP’s reasoning. Moreover, Petitioner argues that
9 administrative exhaustion would be futile because BOP’s arrest was allegedly due to
10 its national policy and because a showing of irreparable harm exists here. Because
11 the Court finds that irreparable harm exists here, the Court waives the exhaustion
12 requirement.

13 **IV. Temporary Restraining Order**

14 **A. Legal Standard**

15 A temporary restraining order may be issued upon a showing “that immediate
16 and irreparable injury, loss, or damage will result to the movant before the adverse
17 party can be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A). In determining whether
18 to issue a temporary restraining order, courts apply the factors that guide the
19 evaluation of a request for preliminary injunctive relief: (1) likelihood of success on the
20 merits; (2) irreparable harm in the absence of preliminary relief (3) the balance of
21 equities and (4) the public interest. See *Winter v. Natural Res. Def. Council, Inc.*, 555
22 U.S. 7, 20 (2008); see *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832,
23 839 n.7 (9th Cir. 2001) (explaining that the analysis for temporary restraining orders
24 and preliminary injunctions is “substantially identical”).

25 There is an even higher burden where the type of injunction sought is a
26 “mandatory injunction.” See *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015)
27 (explaining that the plaintiff faced a “doubly demanding” burden for a mandatory
28 injunction). To obtain a mandatory injunction, a plaintiff must show that “the law and

1 facts *clearly favor* her position, not simply that she is likely to succeed.” *Id.* (emphasis
2 in original). Because a mandatory injunction requires that a responsible party take an
3 action, they are “not granted unless extreme or very serious damage will result. . . .”
4 *Marlyn Nutraceuticals, Inc., v. Mucos Pharma GmbH & Co.*, 571 F.3d 878–79 (9th Cir.
5 2009). The Court finds that this heightened burden is met in this case.

6 **B. Discussion**

7 **1. Likelihood of Success on the Merits**

8 The first *Winter* factor, the likelihood of success on the merits, “is a threshold
9 inquiry and is the most important factor.” *Baird v. Bonta*, 81 F.4th 1036, 1042 (9th Cir.
10 2023) (quoting *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 989 (9th Cir. 2020)).
11 Petitioner argues that the BOP violated the FSA by denying him the ability to apply his
12 FSA Credits toward prerelease custody based on his unresolved immigration
13 detainer. Specifically, Petitioner contends that the language of section 3632(d)(4)(C)
14 imposes a mandatory duty on the BOP to allow eligible prisoners to apply their FSA
15 Credits. Respondent does not deny that Petitioner was reincarcerated because of the
16 immigration detainer, but disputes that section 3632(d)(4)(C) imposes any mandatory
17 duty.

18 The Court now turns to the text of section 3632(d)(4)(C), which reads:

19
20 Time credits earned under this paragraph by prisoners who
21 successfully participate in recidivism reduction programs or
22 productive activities shall be applied toward time in prerelease
23 custody or supervised release. The Director of the Bureau
24 of Prisons shall transfer eligible prisoners, as determined under
25 section 3624(g), into prerelease custody or supervised release.

26 18 U.S.C. § 3632(d)(4)(C) (emphasis added). Other courts in the Ninth Circuit,
27 including a court in this District, have interpreted this language to mean that the BOP
28 does not have the discretion to exclude an eligible prisoner from having his earned
time credits applied under the FSA, because the FSA language in 18 U.S.C.

§ 3632(d)(4)(C) is mandatory. *Ramirez*, 2023 WL 8878993, at *4 (agreeing with other courts in finding that the language in section 3632(d)(4)(C) is mandatory); see *Jones v. Engleman*, No. 2:22-cv-05292 MGS GJS, 2022 WL 6563744, at *10 (C.D. Cal. Sept. 7, 2022), *report and recommendation adopted in part, rejected in part*, 2022 WL 6445565, at *1 (C.D. Cal. Oct. 7, 2022) (adopting in relevant part the statutory analysis in the findings and recommendations finding that section 3632(d)(4)(C) is mandatory); see also *Woodley v. Warden, USP Leavenworth*, No. 5:24-cv-03053 JWL, 2024 WL 2260904, at *3 (D. Kan. May 15, 2024) (stating that a plain reading of the section 3632(d)(4)(D) requires BOP to transfer a prisoner to prerelease custody or supervised release if the prisoner is “eligible” as pursuant to subsection 3624(g)). Under this reading, it appears to the Court that Petitioner had a right to apply his earned credits to a non-prison setting, although the form of custody (home confinement versus a residential reentry center) would be up to the BOP’s discretion.

Respondents argue that even though the section uses the word “shall”, section 3632(d)(4)(C) does not eliminate the BOP’s discretion over the use of prerelease custody under section 3621(b). In making this claim, Respondents contend that section 3632(d)(4)(C) incorporates section 3624(g), titled “prerelease custody or supervised release for risk and needs assessment system participants”, by reference. The Court does not disagree with this reading. Respondents further argue that section 3624(g)(10) in turn references a portion of section 3624(c) that discusses prerelease time limits and also a provision expressly incorporating and preserving BOP’s discretion under section 3621(b). Respondent then argues that this provision regarding BOP’s discretion also applies to section 3632(d)(4)(C). The Court finds that this argument is flawed.

Section 3624(g)(10) reads: “[t]he time limits under subsections (b) and (c) shall not apply to prerelease custody under this subsection.” 18 U.S.C. § 3624(g)(10). Subsection (c), at issue here and which predates the FSA, limits prerelease custody to twelve months. Subsection (g)(10)’s exclusion of this time limit makes sense given that

1 subsection (c) would have otherwise created a conflict with the requirements of
2 section 3632(d)(4)(C) if eligible prisoners were constrained in the number of FSA
3 credits that could be applied toward prerelease custody or supervised release. In
4 addition to providing how much time could otherwise be permitted in prerelease
5 custody, subsection 3624(c)(4) further provides that “[n]othing in this subsection shall
6 be construed to limit the authority of the Director of the Bureau of Prisons under
7 section 3621.” (Emphasis added.) Respondent argues that this language also applies
8 to release under section 3632(d)(4). Not so. The fact that section 3624(g)(10) *limits*
9 application of subsection 3624(c) in no way suggests that a separate provision
10 contained in that section somehow applies to limit application of section 3632(d)(4).
11 Thus, the Court agrees with other district courts in this circuit that the language in
12 section 3632(d)(4)(C) is mandatory.

13 The Court now turns to Petitioner’s unresolved immigration detainer as a basis
14 for denying his FSA credit application. Respondents have not identified, and the
15 Court has not found, any place in the relevant sections where it states that individuals
16 with immigration detainers, are prohibited from applying their FSA credits for
17 prerelease. See *Ramirez*, 2023 WL 8878993, at *4 (discussing that BOP likely
18 exceeded its statutory authority to the extent it cancelled petitioner’s credits based on
19 a non-disqualifying conviction). Indeed, Congress appears to have considered the
20 issue of whether and to what extent undocumented immigrants should be afforded
21 the opportunity to apply time credits and concluded that prisoners who are the
22 “subject of a final order of removal under any provision of the immigration laws” are
23 ineligible to do so. See 18 U.S.C. § 3632(d)(4)(E)(i). Petitioner has no such final order
24 of removal. If Congress had intended for noncitizens who are subject to an
25 immigration detainer (but not a final order of removal) to be ineligible to apply
26 credits, it presumably would have said so. Perhaps recognizing this, in 2023 the BOP
27 issued Change Notice 5410.01 which struck language from Program Statement
28 5410.01, First Step Act of 2018 – Time Credits: Procedures for Implementation of 18

1 U.S.C. § 3632(d)(4), such that federal prisoners subject to immigration detainers were
2 no longer automatically prohibited from applying earned time credits. *Alatorre v.*
3 *Derr*, No. 1:22-cv-00516 JMS WRP, 2023 WL 2599546, at *5 (D. Hawaii Mar. 22, 2023)
4 (explaining the changes made to Program Notice 5410.01 by Change Notice
5 5410.01). While the BOP's program statements are not binding, see *Reeb*, 636 F.3d at
6 1227, it is nonetheless informative, and in any event is more consistent with the
7 statutory language.⁴

8 Respondents next argue that even if section 3632(d)(4)(C) is mandatory, that
9 does not mean that Petitioner is entitled to be released from prison. The argument
10 appears to be that section 3632(d)(4)(C) authorizes the BOP to allocate the credits
11 toward prerelease custody or supervised release, which would allow BOP to shorten
12 the time on supervised release at the end of the term of supervised release. (Martin
13 Opp'n at 15.) In other words, instead of transferring Petitioner to prerelease custody
14 or supervised release now, BOP could shorten the period of supervised release such
15 that when he is ultimately released, he has less supervised release time.

16 As an initial matter, the Court agrees that the BOP has discretion to determine
17 how the earned credits are to be divided between prerelease custody and supervised
18 release. See 18 U.S.C. § 3632(d)(4)(C). However, to the extent that Respondents are
19 attempting to argue that they are able to backend the supervisory release credits such
20 that an eligible prisoner would be eligible for early release but would remain in BOP
21 custody, the Court finds this to be in violation of the second sentence of section
22 3632(d)(4)(C), which provides that the "Director of the Bureau of Prisons shall transfer
23 eligible prisoners, as determined under section 3624(g), into prerelease custody or
24 supervised release." An interpretation that BOP may backend the supervisory release
25 ignores the command of section 3632(d)(4)(C) that the Director "transfer" eligible
26 prisoners, since in that situation the Director would not be transferring the prisoner

27 ⁴ Respondent has cited cases decided before this change, for instance *Hassan v. Hajar*, which the Court
28 does not view as persuasive. No. 3:23-cv-00041-KC, 2023 WL 1769207, at *3 (W.D. Tex. Feb. 3, 2023).

1 into either prerelease custody or supervised release. 18 U.S.C. § 3632(d)(4)(C). Here,
2 Petitioner was already awarded 700 days of prerelease credits and 365 days of
3 supervisory release credits. While BOP could have divided the time differently
4 between prerelease custody and supervised release, the Director was required to
5 transfer Petitioner into one of the two.

6 For the foregoing reasons, the Court finds that Petitioner has demonstrated a
7 likelihood of success on the merits.

8 **2. Irreparable Harm**

9 A party seeking preliminary relief must also make a “clear showing” of a
10 likelihood of irreparable harm in the absence of the relief requested. *Winter*, 555 U.S.
11 at 22; see *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127,1131 (9th Cir. 2011) (“...
12 plaintiffs must establish that irreparable harm is likely, not just possible, in order to
13 obtain a preliminary injunction.”).

14 Petitioner argues that he is irreparably harmed every day he remains in custody
15 rather than serving the final portion of his sentence on prerelease custody. The Court
16 agrees. “Every day [Petitioner] is incarcerated rather than serving the final portion of
17 his sentence on prerelease custody or supervised release as mandated by the First
18 Step Act results in irreparable injury; petitioner cannot get back the time he spends
19 incarcerated.” *Ramirez*, 2023 WL 8878993, at *5. Respondents contend that no
20 irreparable harm exists to Petitioner because the BOP prerelease programming is
21 discretionary. However, for the reasons discussed above, the Court finds that in the
22 context of the FSA, prerelease custody or supervised release is mandatory where the
23 prisoner is eligible. Thus, Petitioner has satisfied this requirement.

24 **3. Balance of Equities and Public Interest**

25 The final two *Winter* factors merge when the government is the nonmoving
26 party. *Baird*, 81 F.4th at 1040. Here, the Respondents’ harm is clearly minimal, as they
27 have no discretion to ignore the Congressional directive issued in section
28 3632(d)(4)(C). On the other hand, the hardship to Petitioner is quite clear: he is

1 harmed every day he is improperly incarcerated rather than on prerelease custody.
2 Further, the First Step Act was enacted by Congress to provide incarcerated
3 individuals the opportunity to participate in programming that would allow for
4 rehabilitation. See First Step Act of 2018, Pub. L. 115-391, Section 101. It is unclear to
5 the Court how allowing for the discretionary removal of the incentives for following
6 through with such programming benefits the public. Moreover, Petitioner had not
7 violated any of the terms of his prerelease custody and was taking care of his serious
8 medical issues. He will be able to continue to reintegrate with his community and
9 continue his rehabilitation while in prerelease custody.

10 **V. Conclusion**

11 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 12 1. Petitioner's Motion for Temporary Restraining Order (ECF No. 6) is
13 GRANTED;
 - 14 A. Respondents are ordered to transfer Mr. Dumitru Martin back into
15 prerelease custody. Respondents are further restrained and
16 enjoined from removing Petitioner from prerelease custody based
17 on his immigration status.
 - 18 B. This Temporary Restraining Order granted here shall expire on
19 March 21, 2025, at 5:00 P.M., absent further order of this Court.
 - 20 C. No bond shall be required under Federal Rule of Civil Procedure
21 65(c).
- 22 2. The parties are directed to meet and confer as to whether any further
23 evidence or briefing need be presented or whether the Court may adopt
24 this order as a preliminary injunction pending a final adjudication on the
25 merits. The parties shall file a joint response outlining their position(s) by
26 March 11, 2025. If either party requests further briefing on whether a
27 preliminary injunction should be entered, the parties shall propose a
28

1 schedule for Petitioner to file a motion for preliminary injunction and for
2 briefing on said motion.

3
4 IT IS SO ORDERED.

5 Dated: **March 7, 2025**


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE

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